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AN ACT

RELATING TO CORRECTIONS; PROVIDING EARNED MERITORIOUS
DEDUCTIONS FOR PAROLEES; AMENDING A SECTION OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 33-2-34 NMSA 1978 (being Laws 1999,
Chapter 238, Section 1, as amended) is amended to read:

"33-2-34. ELIGIBILITY FOR EARNED MERITORIOUS
DEDUCTIONS.--

A. To earn meritorious deductions, a prisoner
confined in a correctional facility designated by the
corrections department must be an active participant in
programs recommended for the prisoner by the classification
committee and approved by the warden. Meritorious deductions
shall not exceed the following amounts:

(1) for a prisoner confined for committing a
serious violent offense, up to a maximum of four days per
month of time served;

(2) for a prisoner confined for committing a
nonviolent offense, up to a maximum of thirty days per month
of time served;

(3) for a prisoner confined following
revocation of parole for the alleged commission of a new
felony offense or for absconding from parole, up to a maximum
of four days per month of time served during the parole term

1 following revocation; and

2 (4) for a prisoner confined following
3 revocation of parole for a reason other than the alleged
4 commission of a new felony offense or absconding from parole,
5 up to a maximum of eight days per month of time served during
6 the parole term following revocation.

7 B. A prisoner may earn meritorious deductions upon
8 recommendation by the classification committee, based upon
9 the prisoner's active participation in approved programs and
10 the quality of the prisoner's participation in those approved
11 programs. A prisoner may not earn meritorious deductions
12 unless the recommendation of the classification committee is
13 approved by the warden.

14 C. If a prisoner's active participation in
15 approved programs is interrupted by a lockdown at a
16 correctional facility, he may continue to be awarded
17 meritorious deductions at the rate he was earning meritorious
18 deductions prior to the lockdown, unless the warden
19 determines that the prisoner's conduct contributed to the
20 initiation or continuance of the lockdown.

21 D. A prisoner confined in a correctional facility
22 designated by the corrections department is eligible for
23 lump-sum meritorious deductions as follows:

24 (1) for successfully completing an approved
25 vocational, substance abuse or mental health program, one

1 month; except when the prisoner has a demonstrable physical,
2 mental health or developmental disability that prevents the
3 prisoner from successfully earning a general education
4 diploma, in which case, the prisoner shall be awarded three
5 months;

6 (2) for earning a general education diploma,
7 three months;

8 (3) for earning an associate's degree, four
9 months;

10 (4) for earning a bachelor's degree, five
11 months;

12 (5) for earning a graduate qualification,
13 five months; and

14 (6) for engaging in a heroic act of saving
15 life or property, engaging in extraordinary conduct for the
16 benefit of the state or the public that is at great expense,
17 risk or effort on behalf of the inmate, or engaging in
18 extraordinary conduct far in excess of normal program
19 assignments that demonstrates the prisoner's commitment to
20 rehabilitate himself. The classification committee and the
21 warden may recommend the number of days to be awarded in each
22 case based upon the particular merits, but any award shall be
23 determined by the director of the adult institutions division
24 of the corrections department.

25 E. Lump-sum meritorious deductions, provided in

1 Paragraphs (1) through (6) of Subsection D of this section,
2 may be awarded in addition to the meritorious deductions
3 provided in Subsections A and B of this section. Lump-sum
4 meritorious deductions shall not exceed one year per award
5 and shall not exceed a total of one year for all lump-sum
6 meritorious deductions awarded in any consecutive
7 twelve-month period.

8 F. A prisoner is not eligible to earn meritorious
9 deductions if the prisoner:

10 (1) disobeys an order to perform labor,
11 pursuant to Section 33-8-4 NMSA 1978;

12 (2) is in disciplinary segregation;

13 (3) is within the first sixty days of
14 receipt by the corrections department; or

15 (4) is not an active participant in programs
16 recommended and approved for him by the classification
17 committee.

18 G. The provisions of this section shall not be
19 interpreted as providing eligibility to earn meritorious
20 deductions from a sentence of life imprisonment or a sentence
21 of death.

22 H. The corrections department shall promulgate
23 rules to implement the provisions of this section, and the
24 rules shall be matters of public record. A concise summary
25 of the rules shall be provided to each prisoner, and each

1 prisoner shall receive a quarterly statement of the
2 meritorious deductions earned.

3 I. A New Mexico prisoner confined in a federal or
4 out-of-state correctional facility is eligible to earn
5 meritorious deductions for active participation in programs
6 on the basis of the prisoner's conduct and program reports
7 furnished by that facility to the corrections department.
8 All decisions regarding the award and forfeiture of
9 meritorious deductions at such facility are subject to final
10 approval by the director of the adult institutions division
11 of the corrections department or the director's designee.

12 J. In order to be eligible for meritorious
13 deductions, a prisoner confined in a federal or out-of-state
14 correctional facility designated by the corrections
15 department must actively participate in programs that are
16 available. If a federal or out-of-state correctional
17 facility does not have programs available for a prisoner, the
18 prisoner may be awarded meritorious deductions at the rate
19 the prisoner could have earned meritorious deductions if the
20 prisoner had actively participated in programs.

21 K. A prisoner confined in a correctional facility
22 in New Mexico that is operated by a private company, pursuant
23 to a contract with the corrections department, is eligible to
24 earn meritorious deductions in the same manner as a prisoner
25 confined in state-run correctional facilities. All decisions

1 regarding the award or forfeiture of meritorious deductions
2 at such facilities are subject to final approval by the
3 director of the adult institutions division of the
4 corrections department or the director's designee.

5 L. As used in this section:

6 (1) "active participant" means a prisoner
7 who has begun, and is regularly engaged in, approved
8 programs;

9 (2) "program" means work, vocational,
10 educational, substance abuse and mental health programs,
11 approved by the classification committee, that contribute to
12 a prisoner's self-betterment through the development of
13 personal and occupational skills. "Program" does not include
14 recreational activities;

15 (3) "nonviolent offense" means any offense
16 other than a serious violent offense; and

17 (4) "serious violent offense" means:

18 (a) second degree murder, as provided
19 in Section 30-2-1 NMSA 1978;

20 (b) voluntary manslaughter, as provided
21 in Section 30-2-3 NMSA 1978;

22 (c) third degree aggravated battery, as
23 provided in Section 30-3-5 NMSA 1978;

24 (d) first degree kidnapping, as
25 provided in Section 30-4-1 NMSA 1978;

1 (e) first and second degree criminal
2 sexual penetration, as provided in Section 30-9-11 NMSA 1978;

3 (f) second and third degree criminal
4 sexual contact of a minor, as provided in Section 30-9-13
5 NMSA 1978;

6 (g) first and second degree robbery, as
7 provided in Section 30-16-2 NMSA 1978;

8 (h) second degree aggravated arson, as
9 provided in Section 30-17-6 NMSA 1978;

10 (i) shooting at a dwelling or occupied
11 building, as provided in Section 30-3-8 NMSA 1978;

12 (j) shooting at or from a motor
13 vehicle, as provided in Section 30-3-8 NMSA 1978;

14 (k) aggravated battery upon a peace
15 officer, as provided in Section 30-22-25 NMSA 1978;

16 (l) assault with intent to commit a
17 violent felony upon a peace officer, as provided in Section
18 30-22-23 NMSA 1978;

19 (m) aggravated assault upon a peace
20 officer, as provided in Section 30-22-22 NMSA 1978; and

21 (n) any of the following offenses, when
22 the nature of the offense and the resulting harm are such
23 that the court judges the crime to be a serious violent
24 offense for the purpose of this section: 1) involuntary
25 manslaughter, as provided in Section 30-2-3 NMSA 1978;

1 2) fourth degree aggravated assault, as provided in
2 Section 30-3-2 NMSA 1978; 3) third degree assault with intent
3 to commit a violent felony, as provided in Section 30-3-3
4 NMSA 1978; 4) third and fourth degree aggravated stalking, as
5 provided in Section 30-3A-3.1 NMSA 1978; 5) second degree
6 kidnapping, as provided in Section 30-4-1 NMSA 1978;
7 6) second degree abandonment of a child, as provided in
8 Section 30-6-1 NMSA 1978; 7) first, second and third degree
9 abuse of a child, as provided in Section 30-6-1 NMSA 1978;
10 8) third degree dangerous use of explosives, as provided in
11 Section 30-7-5 NMSA 1978; 9) third and fourth degree criminal
12 sexual penetration, as provided in Section 30-9-11 NMSA 1978;
13 10) fourth degree criminal sexual contact of a minor, as
14 provided in Section 30-9-13 NMSA 1978; 11) third degree
15 robbery, as provided in Section 30-16-2 NMSA 1978; 12) third
16 degree homicide by vehicle or great bodily injury by vehicle,
17 as provided in Section 66-8-101 NMSA 1978; and 13) battery
18 upon a peace officer, as provided in Section 30-22-24 NMSA
19 1978.

20 M. Except for sex offenders, as provided in
21 Section 31-21-10.1 NMSA 1978, an offender sentenced to
22 confinement in a correctional facility designated by the
23 corrections department who has been released from confinement
24 and who is serving a parole term may be awarded earned
25 meritorious deductions of up to thirty days per month upon

1 recommendation of the parole officer supervising the
2 offender, with the final approval of the adult parole board.
3 The offender must be in compliance with all the conditions of
4 the offender's parole to be eligible for earned meritorious
5 deductions. The adult parole board may remove earned
6 meritorious deductions previously awarded if the offender
7 later fails to comply with the conditions of the offender's
8 parole. The corrections department and the adult parole
9 board shall promulgate rules to implement the provisions of
10 this subsection."

11 Section 2. EFFECTIVE DATE.--The effective date of the
12 provisions of this act is July 1, 2004. _____

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